

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 672 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ABDUL SULEMAN VADHER

Versus

HARUN HAJI ISMAIL

Appearance:

None present for Petitioners

MR GAURANG H BHATT for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/12/98

ORAL JUDGEMENT

1. Under the impugned order of the learned trial court, the prayer made by the plaintiff-petitioner in the plaint for the possession of boat has not been permitted to be deleted. Learned trial court has observed that it is not a bonafide prayer made by the plaintiff-petitioner.

2. This revision application has been admitted by

this Court on 6-4-1995 and by way of interim relief the order of the trial court for payment of Court fees is stayed which means that further proceedings in the suit shall continue without insisting upon the payment of additional court fees. So this court has not stayed the proceedings of the suit out of which this revision application has arisen. The suit is of the year 1994 and there is all possibility that by now the suit itself would have been disposed of. Learned counsel for the respondent is unable to make any statement affirmatively in this respect. So far as the learned counsel for the petitioner is concerned, he is not present. I do not find any justification in the approach of the learned trial court. In case on the prayer made in the plaint, the plaintiff is unable to pay the additional court fees then he is perfectly justified to make prayer for deletion thereof and exactly what it has been done in the present case. It is true that the plaintiff has enjoyed the interim relief for some period but the Court has granted the relief to him and in case the Court considers that the court fee has to be paid on the value of boat then at the time of grant of interim relief it should have taken care of it but at the time of grant of interim relief, the Courts are not taking any care whatsoever except to see that some relief has to be granted to the party who approaches to it. That seems to be not the correct approach. Be that as it may. For the reasons aforesaid the order of the learned trial court cannot be allowed to stand.

3. In the result, this revision application succeeds and the same is allowed. The impugned order of the trial court dated 23-3-1995 is quashed and set aside. Rule is made absolute with no order as to costs.
